The opinion in support of the decision being entered today was **not** written for publication in and is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VENKATACHARI DILIP and SANJEEV DHCER

Appeal No. 2006-1091
Application No. 09/665,919

ON BRIEF

Before CRAWFORD, LEVY, and FETTING, **Administrative Patent Judges**.
FETTING, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. §134 from the examiner's final rejection of claims 1-30 and 38-72, which are all of the claims pending in this application.

We AFFIRM.

BACKGROUND

The appellants' invention relates to a method of, and apparatus for, transferring funds between accounts. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

> A method comprising:
>
> a processor initiating a withdrawal of assets from a first account at a first financial institution; and
>
> the processor initiating a deposit of the withdrawn assets to a second account at a second financial institution, wherein the first account and the second account have a common account holder.

PRIOR ART

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Sullivan et al. (Sullivan)	6,598,028	7/22/2003 (filed 9/3/1999)

REJECTIONS

Claims 1-30 and 38-72 stand rejected under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Sullivan.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejection, we make reference to the examiner's answer (mailed 7/28/2005) for the reasoning in support of the rejection, and to

appellants' brief (filed 3/18/2005) and reply brief (filed 9/28/2005) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations that follow.

Claims 1-30 and 38-72 rejected under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Sullivan.

As to claims 1-11 and 54, appellants argue that Sullivan fails to disclose two separate transactions withdrawing assets from one institution and depositing those assets in another institution where the accounts are held by the same holder, and that the portions of Sullivan cited by the examiner refer to currency conversions instead [See Brief at p. 12]. Appellants further contend the examiner has admitted that Sullivan fails to show all of the claimed elements, this admission evidenced by the examiner's use of the verb "suggests" [See Brief at p. 12]

In response we note that Sullivan states that

> These funds may be redeemed in a particular currency or perhaps used to **purchase shares in a growth and income fund**. The funds may also be used to **purchase equities** managed by the mechanism 100. Alternatively, the deposit may be used **to purchase contracts, such as options, derivatives, futures and hedge funds**. The mechanism makes a record of the deposit, which is made in a first currency and **subsequent transactions are debited and recorded against the deposit**.

[See col. 9 lines 24-30] (emphasis added)

This extract teaches that funds (assets) are withdrawn from one account at a banking institution in which the funds are held, and are separately deposited in a securities institution that has an account for equities, growth or income funds, and contracts for options, derivatives, future and hedge fund. Sullivan indicates that these accounts are in different institutions

> [R]elationships with financial institutions 118 for example, will also allow various customers of **those financial institutions** 118, such as user 3120, to benefit from the financial services offered by the universal financial management/translation mechanism 100.

[See col. 9 lines 14-18] (emphasis added), and

> [P]urchases are made through the relevant wire system for the transfer of Disbursable Funds. The financial institution, from which the purchase payment is being sent, has access to the appropriate system. All wire instructions are accompanied by complete information regarding the investor's account, in order to facilitate the prompt and accurate handling of investments.

[See col. 13 lines 18-23]

The withdrawal and deposit are necessarily separate transactions as to each other because of the separation of the institutions, i.e. each institution processes its own transactions.

We further note that nowhere in the examiner's rejection has the examiner asserted that any claim element is "suggested" as appellants argue. Appellants apparently are referring to remarks separately made by the examiner :

> Sullivan readily suggests the transfer of funds between two different institutions by the term international trade, thus between two or more countries and their respective financial institutions [See Final Rej. at p. 2]

The examiner is using the term "suggests" to mean "implies", i.e. the examiner is inferring that transfers between multiple countries necessitate transfers between different institutions because such institutions are the legal creations of the countries they inhabit. It is well settled that a reference does not have to explicitly recite all that it anticipates. Anticipation may be implicit or inherent, *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 51 USPQ2d 1943 (Fed. Cir. 1999). Thus, we find the argument that the examiner admitted to the absence of a claim element by application of an obviousness standard to be unpersuasive.

Accordingly, we **sustain** the rejection as applied to claim 1-11 and 54.

As to claims 12-21 and 68-69, appellants repeat the arguments to claims 1-11 above and further argue that Sullivan fails to disclose two separate transactions using an intermediate account not owned by the first and third account's owner. [See Brief at p. 13].

In response, we note that Sullivan explicitly recites

> User 5 may also employ the services of the mechanism 100 by way of one of a variety of intermediary entities and tools 170.

[See col. 10 lines 63-65]

This teaching of Sullivan does no more than recite the notoriously well known use of intermediaries such as clearing house and financial networks to route funds across diverse geographic regions.

Accordingly, we sustain the rejection as applied to claim 12-21 and 68-69.

As to claims 22-30, 55, 66-67 and 71-72, appellants repeat the arguments to claims 1-11 above and further argue that Sullivan fails to disclose initiation by a third party. [See Brief at p. 15].

We note that the intermediary discussed in Sullivan (*supra.*) initiates the transfer of funds for those transactions that are purchases, i.e. a credit or debit card network company initiates the transactions with source and destination financial institutions that result in withdrawals and deposits. In contacting both financial institutions, the credit card company operates as an intermediary.

Accordingly, we **sustain** the rejection as applied to claim 22-30, 55, 66-67 and 71-72.

As to claims 38-41, 42-47, and 48-50, appellants repeat the arguments to claims 1-11 above and our analysis and conclusions correspond accordingly. [See Brief at p. 15-17].

Accordingly, we **sustain** the rejection as applied to 38-41, 42-47. and 48-50.

As to claims 51-53 and 56-60, appellants repeat the arguments to claims 1-11 and those to claims 12-21 and 68-69 above and our analysis and conclusions correspond accordingly. [See Brief at p. 18-19].

Accordingly, we **sustain** the rejection as applied to 51-53 and 56-60.

As to claims 61-65 and 70, appellants repeat the arguments to claims 1-11 and those to claims 12-21 and 68-69 above, to which our analysis and conclusions correspond accordingly, and further argue that Sullivan fails to teach the use of debit and credit instructions for the withdrawal and deposits. [See Brief at p. 19-20].

We note that a withdrawal is, by definition, a debit to an account and a deposit is correspondingly a credit to an account. Accordingly, the argued claim limitations do no more than apply the formal accounting names, debit and credit, to the very transactions Sullivan teach as shown above in the analysis of claims 1-11 and those to claims 12-21 and 68-69.

Accordingly, we **sustain** the rejection as applied to 51-53 and 56-60.

CONCLUSION

To summarize, the rejection of claims 1-30 and 38-72 under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Sullivan, is **sustained**.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

MURRIEL E. CRAWFORD
Administrative Patent Judge

STUART S. LEVY
Administrative Patent Judge

ANTON W. FETTING
Administrative Patent Judge

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